

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

D. SAMUEL GOODELL,

Plaintiff,

CASE NUMBER: 12-15051

HONORABLE VICTORIA A. ROBERTS

v.

STEPHANIE FAZEKAS-HARDY,  
*et. al.*,

Defendants,

\_\_\_\_\_ /

**ORDER DISMISSING COMPLAINT**

On November 14, 2012, D. Samuel Goodell ("Goodell") filed a Complaint, claiming first amendment retaliation by a "John Doe" Defendant. *Federal Rule of Civil Procedure 4(m)*, requires service of all defendants within 120 days of filing the complaint. Fed. R. Civ. P. 4(m). On July 3, 2013, the Court ordered Goodell to show good cause for his failure to serve "John Doe," and warned that failure to do so will result in dismissal of his Complaint.

Goodell responded on July 25, 2013, citing problems receiving court documents and discovery issues. The Court is not satisfied with his reasons for failing to serve "John Doe."

Designation of a "John Doe" defendant is not favored in the federal courts, but it is permissible when the identity of the alleged defendant is not known at the time the complaint is filed, and the plaintiff could identify the defendant through discovery. *Yates v. Young*, No. 84-5586; 84-5701, 1985 U.S. App. LEXIS 22937 (6th Cir. Aug. 28, 1985).

Goodell had a copy of his Transfer Order and knew that "R. Gilbert CFA-16"

approved his Transfer. Goodell could have brought suit against "R. Gilbert CFA-16" or, absent identifying information for this person, could have brought suit against a Warden of the correctional facility. Goodell's excuses for failing to serve are unsatisfactory because he knew the identity of "John Doe."

The Court **DISMISSES WITHOUT PREJUDICE** Goodell's Complaint against "John Doe."

**IT IS ORDERED.**

S/Victoria A. Roberts  
Victoria A. Roberts  
United States District Judge

Dated: August 1, 2013

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on August 1, 2013.

S/Carol A. Pinegar  
Deputy Clerk